

Message Text

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ORIGIN OPIC-12

INFO OCT-01 EA-11 ISO-00 EB-11 /035 R

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DRAFTED BY: OPIC/GC:CFLIPMAN

APPROVED BY: EB/IFD:MKENNEDY

EB/IFD:WHCOURTNEY

EB/IFD:FMAERKLE INFO

EA/IMS A DORNHEIM SUBS

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P 142344Z NOV 73

FM SECSTATE WASHDC

TO AMEMBASSY JAKARTA PRIORITY

UNCLAS STATE 225309

E.O. 11652: N/A

TAGS: EFIN, ID

SUBJ: DARALON COLLATERAL SECURITY DOCUMENTS

REF: (A) LIPMAN-CASTIN LETTER OF OCT. 19, 1973; (B) STATE
219416

1. OPIC WOULD LIKE USAID TO CONDUCT BUSINESS NEGOTIATIONS OF COLLATERAL SECURITY DOCUMENTS ("CSD"), PARTICULARLY FORECLOSURE AGREEMENT, AS DISCUSSED REF (A) AND PRIOR CORRESPONDENCE PURSUANT AUTHORITY DELEGATED BY REF (B). INDONESIAN LEGAL ADVICE AVAILABLE TO YOU AS NEEDED FROM MKK. WE ARE ALSO ASKING MKK TO ASSIST IN SUCH BUSINESS NEGOTIATIONS.

2. SINCE RECENT PROBLEMS (ADVERSE CLAIM TO LAND, MLA STAMP TAX, DELAYED EXECUTION CSD, DELAYED RECEIPT LEGAL OPINIONS) CANNOT BE SOLVED FOR NOV. 15 MLA DRAWDOWN (UNDERSTAND DIMAS AND RICHARDS OF IFC/GC CONCUR), OPIC UNDERSTANDS CLOSING WILL BE POSTPONED UNTIL WEEK OF NOV. 26 REPEAT 26.

3. OPIC SENDING FOLLOWING MESSAGE BY CABLE AND TELEX TO MKK:

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QUOTE:

2. RE:LAND:

A. PRIOR TO DISBURSEMENT MLA LOAN, WE MUST HAVE SATISFACTORY OPINION ABOUT VALIDITY MANSUR CLAIM AND DEGREE TO WHICH DETERMINATION ADVERSE TO DARALON WOULD AFFECT DARALON'S BUSINESS.

B. DISCUSSION YOUR TELEX RAISES SEVERAL QUESTIONS:

(I) MANSUR LETTER REQUIRES DEMOLITION OF DARALON BUILDINGS WHEREAS HUDSPETH LETTER TO UTOMO STATES ADVERSE AFFECT DARALON'S OPERATIONS; AND (II) HUDSPETH'S ORAL ADVICE TO YOU IS THAT MANSUR CLAIM HAS BEEN SETTLED.

C. PLEASE CLARIFY FOREGOING AND GIVE US YOUR TELEX OPINION ASAP. VALIDITY OF MANSUR CLAIM AND SETTLEMENT.

3. STAMP TAX QUESTION RE: MLA MUST BE SETTLED PRIOR TO DRAWDOWN. UNLESS YOU AND NUGROHO CAN GIVE CLEAN OPINIONS THAT TAX UNNECESSARY TAX SHOULD BE PAID.

4. RE: YOUR LEGAL OPINION:

A. O.K. WITH OPIC, DIMAS OF IFC AND MURPHY TO DELETE 4.13 AND 4.24; WILL DEFER ITEMS TO NEXT MLA DRAWDOWN.

B. OK TO INDICATE FORECLOSURE AGREEMENT NOT EXECUTED IF FTAGMS AND POWER OF ATTORNEY ARE EXECUTED AND YOU HAVE CUSTODY OF TITLE DOCUMENTS.

C. OK TO DELETE QTE FIRST UNQTE DROM PARA L.

D. ACCEPTABILITY OF MANSUR CLAIM QUALIFICATION DEPENDS ON 2 ABOVE.

5. ASSUME BY QTE OPIC BRINGDOWN COMMENTS TOMORROW UNQTE YOU MEAN DETAILED COMMENTSON LEGAL OPINION; PLEASE SEND ASAP.

6. PLEASE CONFIRM RECEIPT NUGROHO OPINION IN FORM DELIVERED WITH OPIC'S OCT. 1, 1973 LETTER TO YOU, AND SPECIFY ANY CHANGES.

7 PLEASE NEGOTIATE WHATEVER REMAINS TO BE DONE FOR OPIC ON COLLATERAL SECURITY DOCUMENTS NOT BEING DONE BY USAID; WE WILL CONTACT USAID.

8. OK TO DELETE REFERENCE TO AGENT IN FTAGMS; RIGHTS SHOULD UNCLASSIFIED

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BE GIVEN DIRECTLY TO SECURED PARTIES. BE SURE OPIC'S FUTURE POSITION AS SECURED PARTY IS COVERED. WE WILL WANT TO ADD BNI AS AGENT WHEN FORECLOSURE AGREEMENT EXECUTED.

9. HAVE CONVEYED SUBSTENCE ADVERSE LAND CLAIM AND MLA STAMP TAX PROBLEM TO IVES AND BYRD MENTIONING THAT EACH MUST BE SOLVED PRIOR TO DRAWDOWN. UNQUOTE

4. PLEASE ADVISE PROGRESS. RUSH

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